

Masterson. Stokes.  
Mayfield.

The Sergeant-at-Arms was instructed to bring in the absentees.

#### REFUSE TO ADJOURN.

Senator Meachum moved that the Senate adjourn until 10 o'clock Monday morning.

The motion was lost by the following vote:

Yeas—8.

Barrett. Smith.  
Grinnan. Veale.  
Meachum. Watson.  
Murray. Willacy.

Nays—12.

Brachfield. Looney.  
Chambers. Paulus.  
Cunningham. Senter.  
Green. Skinner.  
Greer. Stone.  
Hudspeth. Terrell.

Absent.

Alexander. Holsey.  
Faust. Kellie.  
Glasscock. Masterson.  
Griggs. Mayfield.  
Harbison. Stokes.  
Harper.

#### ADJOURNMENT.

No quorum present, and

Senator Smith moved that the Senate adjourn until Monday morning at 10:10 o'clock, and

Senator Senter moved that the Senate adjourn until Monday morning at 9 o'clock.

Action being on the longest time first, the motion to adjourn until Monday morning until 10:10 o'clock, was lost by the following vote:

Yeas—5.

Grinnan. Skinner.  
Looney. Terrell.  
Murray.

Nays—14.

Brachfield. Paulus.  
Chambers. Senter.  
Cunningham. Smith.  
Green. Stone.  
Greer. Veale.  
Hudspeth. Watson.  
Meachum. Willacy.

Absent.

Alexander. Faust.  
Barrett. Glasscock.

Griggs. Kellie.  
Harbison. Masterson.  
Harper. Mayfield.  
Holsey. Stokes.

The motion to adjourn until 9 o'clock Monday morning was then adopted by the following vote:

Yeas—12.

Barrett. Senter.  
Cunningham. Skinner.  
Green. Smith.  
Looney. Terrell.  
Meachum. Watson.  
Paulus. Willacy.

Nays—8.

Brachfield. Hudspeth.  
Chambers. Murray.  
Greer. Stone.  
Grinnan. Veale.

Absent.

Alexander. Holsey.  
Faust. Kellie.  
Glasscock. Masterson.  
Griggs. Mayfield.  
Harbison. Stokes.  
Harper.

#### FORTY-FIRST DAY.

Senate Chamber,

Austin, Texas,

Monday, March 4, 1907.

Senate met pursuant to adjournment.

President Pro Tem. Skinner in the chair.

Roll call, no quorum present, the following answering to their names:

Brachfield. Masterson.  
Chambers. Meachum.  
Green. Skinner.  
Greer. Terrell.  
Griggs. Veale.  
Harper. Watson.  
Kellie. Willacy.  
Looney.

Absent.

Alexander. Hudspeth.  
Barrett. Mayfield.  
Cunningham. Murray.  
Faust. Paulus.  
Glasscock. Senter.  
Grinnan. Smith.  
Harbison. Stokes.  
Holsey. Stone.

There being no quorum present, the time for convening being an hour earlier than usual, the Senate stood at ease for 30 minutes.

The Senate was again called to order, the roll called, a quorum present, the following Senators answering to their names:

Barrett.	Kellie.
Brachfield.	Looney.
Chambers.	Masterson.
Cunningham.	Murray.
Green.	Senter.
Greer.	Skinner.
Griggs.	Smith.
Harbison.	Terrell.
Harper.	Veale.
Holsey.	Watson.
Hudspeth.	Willacy.

Absent.

Alexander.	Meachum.
Faust.	Paulus.
Glasscock.	Stokes.
Grinnan.	Stone.
Mayfield.	

Prayer by Rev. H. M. Sears, Chaplain of the Senate.

Pending the reading of the Journals of Friday and Saturday, on motion of Senator Green, the same was dispensed with.

(See Appendix for committee reports, petitions and memorials.)

BILLS AND RESOLUTIONS.

By Senator Veale:

Senate Concurrent Resolution No. 6. Resolved by the Senate, the House concurring, That Hon. H. G. Hendrick, judge of the Thirty-first Judicial District of Texas be, and is hereby permitted to absent himself from the State of Texas for a period of two months during the summer of 1907.

Read first time, and referred to Judiciary Committee No. 1.

By Senator Terrell:

Senate bill No. 232, A bill to be entitled "An Act to amend Title CCLXXIX, Section 1, of an act passed by the Thirteenth Legislature of the State of Texas, and approved June 2nd, 1873, and to provide for filling vacancies in the Board of Trustees of the College of DeKalb, at DeKalb, in Bowie county, Texas, and to create a Board of Trustees for said college, and providing for filling vacancies in said Board and the transaction of the business thereof."

Read first time, and referred to Committee on Educational Affairs.

By Senator Green:

Senate bill No. 233, A bill to be entitled "An Act to make the increase, in-

come, rents, issues and profits of the separate estate of married women, also her separate estate and authorizing conveyances to and settlements upon female persons of property to their sole and separate use and benefit, free from the material rights and community rights and control of their husbands."

Read first time, and referred to Judiciary Committee No. 1.

By Senator Green:

Senate bill No. 234, A bill to be entitled "An Act to authorize district and county judges to inquire into the solvency of the sureties on any bond that may have been approved by the district or county clerk, sheriff or constable, in any county in which such district or county judge may be authorized to hold terms of court, and to authorize such district or county judges to require a new bond to be given in lieu of the bond therefore given and approved in case such district or county judge may be of the opinion that the sureties on any such bond are not good and sufficient for the amount of any such bond; to provide for dismissing appeals and writs of error, and to declare an emergency."

Read first time, and referred to Judiciary Committee No. 1.

By Senator Hudspeth:

Senate bill No. 235, A bill to be entitled "An Act creating the Alpine Independent School District in Brewster county, Texas."

Read first time, and referred to Committee on Educational Affairs.

By Senator Masterson:

Senate bill No. 236, A bill to be entitled "An Act to amend the charter of the City of Galveston by amending Sections 10, 24, and 51 thereof, Subdivision (f) and Subdivision (a) of Section 19 thereof, Subdivision (u) of Section 3 thereof, Subdivision (b) of Section 34 thereof, Sections 74, 54, 44, 78, 32, and Subdivision (a) of Section 71 and adding to said chapter Section 20 (a), Section 71 (b), Section 71 (c) and Section 71 (e), repealing all laws and parts of laws in conflict herewith, and declaring an emergency."

Read first time, and referred to Committee on Towns and City Corporations.

By Senator Terrell:

Senate bill No. 237, A bill to be entitled "An Act to amend Articles 5091, 5094, 5095, 5099, 5106, 5120, 5123 of Title CIV, Chapter 3 of the Revised Statutes of Texas of 1895, pertaining to the duties of tax assessors and their

deputies and the assessment of property for taxation and the preparation of the tax rolls and other matters pertaining thereto and adding to said Title and Chapter, Articles 5153a, 5153b, 5153c, 5153d and 5153e, providing for penalties for the violation of the provisions of this Act and the mode of enforcing the provisions of this Act, and providing an emergency and amending Article 5098 of an Act passed by the Twenty-Fifth Legislature, Chapter 142, page 204 of the Acts of said Legislature, which was an amendment of Article 5098 of the Revised Statutes of Texas of 1895."

Read first time, and referred to Finance Committee.

By Senator Stokes:

Senate bill No. 238, A bill to be entitled "An Act providing for extensions by the Penitentiary Board of the railroad now owned by the State of Texas at the Rusk penitentiary; for its maintenance, equipment and operation; providing for condemning right of way and material therefor; providing for condemnation proceedings; providing for the issuance of bonds by the Penitentiary Board aggregating one hundred and fifty thousand (\$150,000) dollars, bearing interest at five per cent per annum, secured by a lien upon said State railroad, its extension and equipment: providing a method of redemption of said bonds; providing for the purchase of said bonds by the Board of Education out of the permanent school fund; providing that the Railroad Commission of Texas shall have jurisdiction over the traffic carried on and over said State railroad, and authorizing said Commission to compel a fair division of freight and passenger charges between said railroad and connecting lines of railroad; that said Penitentiary Board shall enforce and obey the orders and regulations of the Railroad Commission; providing that this Act shall be cumulative of all other laws in force in this State, and declaring an emergency."

Read first time, and referred to Committee on Internal Improvements.

Morning call concluded.

#### SENATE BILL NO. 7.

Senator Veale moved that the pending order of business (Senate bill No. 126) be suspended, and the Senate take up, out of its order, Senate bill No. 7.

The motion was adopted by the following vote:

Yeas—19.

Barrett.	Cunningham.
Chambers.	Green.

Greer.	Senter.
Griggs.	Skinner.
Harbison.	Stokes.
Hudspeth.	Terrell.
Kellie.	Veale.
Masterson.	Watson.
Meachum.	Willacy.
Murray.	

Nays—4.

Brachfield.	Looney.
Harper.	Smith.

Absent.

Alexander.	Holsey.
Faust.	Mayfield.
Glasscock.	Paulus.
Grinnan.	Stone.

The Chair laid the bill before the Senate, and

There being a majority favorable committee report and a minority unfavorable committee report,

Senator Veale moved the adoption of the majority committee report.

Senator Brachfield moved, as a substitute, the adoption of the minority committee report, and

Senator Veale moved to table the substitute motion, which motion to table was adopted by the following vote:

Yeas—17.

Chambers.	Murray.
Cunningham.	Senter.
Green.	Skinner.
Greer.	Stokes.
Holsey.	Terrell.
Hudspeth.	Veale.
Kellie.	Watson.
Masterson.	Willacy.
Meachum.	

Nays—6.

Barrett.	Harper.
Brachfield.	Looney.
Harbison.	Smith.

Absent.

Alexander.	Grinnan.
Faust.	Mayfield.
Glasscock.	Paulus.
Griggs.	Stone.

Question then recurred on the motion to adopt the majority committee report.

Senator Meachum moved the previous question on the motion to adopt the majority committee report, which motion being duly seconded, was so ordered.

The motion to adopt the majority committee report was adopted.

The Chair laid before the Senate, on its second reading,

Senate bill No. 7, A bill to be entitled "An Act authorizing the Southern Kansas Railway Company of Texas to take up and abandon that part of its track and road extending from Washburn to Panhandle, and in lieu thereof locate, construct, maintain and operate its road on a line extending direct from Panhandle to Amarillo."

Senator Smith offered the following amendment:

Amend the bill by changing the number of Section 4 to that of —, and by inserting after Section 3 the following sections:

"Sec. 4. Within thirty days after the passage of this act, the Governor of the State shall appoint a Board of Arbitrators, composed of three qualified citizens of the State, one of whom he shall designate as chairman, but neither of whom shall reside or own property in the county of Potter, Armstrong or Carson, or any county adjacent to either of said counties. Said board shall be appointed for, and it shall be its duty to assess, fix and award damages to any owner of property located within five miles of any portion of the track and roadbed sought to be taken up, which he may sustain by the removal and non-use thereof.

"Sec. 5. That said board shall meet at Washburn, Texas, within one month after its appointment, each member shall take and subscribe to an oath before some officer authorized to administer the same, that he will faithfully and impartially investigate, fix and award the amount of damages which each of such property owners may sustain by the removal of said roadbed and track. It shall appoint a clerk, who shall keep a record of all the proceedings of said board, and it shall also appoint a messenger, who shall execute all process that may be issued by said board and procure the attendance of witnesses thereon.

"Sec. 6. Notice shall be given by said board of the time and place when such property owners may appear before it, file their claim for damages, and be heard in proof thereof. That in estimating the amount of damages, which should be allowed such owners, the said board shall consider what effect, if any, the continued operation of said road will have upon the future value of such property, whether it will increase the value thereof, the convenience and value thereof to such to have said road maintained, and the damages which will be sustained by said property owners by the non-use and destruction of said road, and shall allow such owners damages

that will fairly compensate them for the removal of said road.

"Sec. 7. That all claims for damages shall be filed with said board within one month after its first meeting and notice thereof given, and as soon as the board shall have completed its work and made award on all claims for damages so filed, it shall file with the county judge of Armstrong county a statement showing the amount of awards made on each claim, the name and postoffice address of the party to whom such award is made, and costs incurred therein and the amount of money paid out by said board.

"Sec. 8. That said railway company shall deposit or cause to be deposited with the county judge of Armstrong county within one month after said board is appointed, the sum of \$5000 to be used as hereinafter directed in the payment of the expenses of said Arbitration Board, the compensation of the members thereof, clerk and messenger aforesaid.

"Sec. 9. The members of said board shall each be allowed the sum of \$10, the clerk and messenger \$5 each per day, for the time actually engaged in determining the amount of damages to be allowed and awarded, and witnesses shall be paid the fees now allowed by law. That all of said expenses above mentioned shall be paid or caused to be paid by said railway company, and the chairman of said board is authorized to draw checks or present approved vouchers on said county judge, to be by him paid out of said \$5000, for any item of expense of compensation allowed by this section of the bill; and said county judge shall pay such checks or vouchers out of said funds on his hands. The remainder of said \$5000 shall be repaid said company.

"Sec. 10. If said railway company shall fail to deposit or cause to be deposited with said county judge the said five thousand dollars within the time herein required, or shall fail to pay the awards so to be made, or deposit with said county judge double the amount of each award not so paid within one month after a statement of said award is filed by said board with said judge, or shall fail to keep said track in good repair, and run and operate its trains thereover as the same is now being done, or remove any part of said track and roadbed, or either, prior to the time when said company shall have paid or secured the payment of all of said awards, then, in either of such cases, this act shall become null and void, and any and all rights or privileges given by this act to said company shall be forfeit-

ed, and all such rights and privileges are granted by this act upon the express conditions that said company shall fully comply with every stipulation mentioned in this act and be performed or complied with by said company."

SENATE BILL NO. 19—FREE CONFERENCE COMMITTEE REPORT ADOPTED.

Senator Looney here called up, as privileged matter, the free conference committee report on Senate bill No. 19 (see Journal of Friday, page 451, for the report in full).

Senator Looney moved the adoption of the report, which motion was adopted by the following vote:

Yeas—23.

Barrett.	Masterson.
Brachfield.	Meachum.
Chambers.	Murray.
Cunningham.	Senter.
Green.	Skinner.
Greer.	Smith.
Harbison.	Stokes.
Harper.	Terrell.
Holsey.	Veale.
Hudspeth.	Watson.
Kellie.	Willacy.
Looney.	

Absent.

Alexander.	Grinnan.
Faust.	Mayfield.
Glasscock.	Paulus.
Griggs.	Stone.

Senator Looney moved to reconsider the vote by which the report was adopted, and lay that motion on the table.

The motion to table prevailed.

HOUSE MESSAGE.

Hall of the House of Representatives,  
Austin, Texas, March 4, 1907.

Hon. A. B. Davidson, President of the Senate.

Sir: I am directed by the House to inform the Senate that the House has granted the request for the appointing of a free conference committee on Senate bill No. 19, and appointed the following on part of the House: Messrs. Carswell, Jenkins, Hamilton, Camp and Duncan.

Also adopted the free conference committee report to Senate bill No. 19 by the following vote: Yeas 91, nays 6.

Respectfully,

BOB BARKER,

Chief Clerk, House of Representatives.

EXCUSED.

On motion of Senator Green, Senator Mayfield was excused from attendance upon the Senate last Friday and Saturday and today on account of important business.

On motion of Senator Holsey, Senator Glasscock was excused from attendance upon the Senate for Saturday, today, tomorrow and Wednesday on account of important business.

On motion of Senator Looney, Senator Harper was excused from attendance upon the Senate last week on account of important business.

On motion of Senator Hudspeth, Senator Meachum was excused from attendance upon the Senate on Friday, February 22, and Tuesday, February 26, on account of sickness in family.

On motion of Senator Willacy, Senator Alexander was excused from attendance upon the Senate for last Saturday and today on account of important business.

On motion of Senator Chambers, Senator Holsey was excused from attendance upon the Senate last Friday and Saturday on account of important business.

On motion of Senator Harper, Senator Stokes was excused from attendance upon the Senate on last Friday and Saturday on account of important business.

On motion of Senator Veale, Senator Grinnan was excused from attendance upon the Senate for today on account of important business.

SENATE BILL NO. 36—CONFERENCE COMMITTEE ON.

Senator Terrell called up as privileged business

Senate bill No. 36, A bill to be entitled "An Act to amend Article 3049, of Chapter 2, Title LVIII, Revised Civil Statutes of the State of Texas, relating to insurance, and prescribing a penalty for failure to comply with same."

And moved that the Senate do not concur in the following House amendment, and request a conference committee on same:

House amendment: In line 33, page 1, after the word "remove" insert the words "or shall bring in any Federal court a suit against any citizen of this State or."

The motion to non-concur was adopted.

COMMITTEE APPOINTED.

The Chair (President Pro Tem. Skinner) announced the following as the conference committee on Senate bill No. 36: Senators Terrell, Smith, Cunningham, Veale and Chambers.

## SENATE BILL NO. 7.

Action here recurred on Senate bill No. 7, the question being on the amendment by Senator Smith, and

Senator Veale offered the following amendment to the amendment, which was adopted:

Amend by striking out "5 miles" where it occurs in the amendment and insert in lieu thereof the words "three miles."

Senator Veale offered the following amendment to the amendment, which was adopted:

Amend by striking out the words "the future operation of said road" in Section 6 of the amendment.

Senator Senter offered the following amendment to the amendment:

Add to the final section of the amendment offered by the Senator from Denton the following words: "Provided, that in the event any part of this act relating to compensation to owners of property who may claim to be damaged as a result of the removal of the tract herein referred to shall be deemed or held to be unconstitutional, such holding shall not affect the remainder of the act, but the same shall continue in full force and effect."

Senator Smith moved to table the amendment to the amendment, which motion to table was lost.

The amendment to the amendment was then adopted.

(Lieutenant Governor Davidson in the chair.)

Question then recurred on the amendment by Senator Smith as amended.

## RECESS.

On motion of Senator Griggs, the Senate, at 12:45 o'clock, recessed until 2:30 o'clock today.

## AFTER RECESS.

The Senate was called to order by Lieutenant Governor Davidson.

## SENATE BILL NO. 7.

Action recurred on Senate bill No. 7, the question being on the amendment by Senator Smith as amended, and

Senator Meachum offered the following amendment to the amendment:

Amend the amendment by striking out Section 6 thereof and insert in lieu thereof the following:

"Ten days' notice shall be given by said board of the time and place where such property owners may appear before it, file their claims for damages, and be heard in proof thereof. In estimating the

amount of damages which shall be allowed such owner, the said board shall award to such owner such damages, if any, as shall fairly compensate him for the damages, if any, sustained by him, by reason of the taking up and destruction of said railroad, provided that in arriving at such damages, if any, said board shall hear evidence as to the reasonable market value of the property of such owner immediately before said road was so taken up and destroyed and immediately after it has been so taken up and destroyed, and the difference in such reasonable market value at such times shall be the measure of damages in arriving at the amount of damages to be awarded such owner. Provided further, that any party aggrieved at the result or amount of such award of said board shall have the right to appeal therefrom, upon giving bond as required by law in condemnation proceedings, to the county or district court of the county, where such award was made, according as the amount in controversy is within the jurisdiction of such court as is now provided by law, and upon such appeal being made to such court, the same shall there be tried de novo as in any other civil causes, and appeal shall lie therefrom the same as is provided by law in cases of other civil actions."

Senator Veale moved to table the amendment to the amendment, which motion to table was adopted by the following vote:

Yeas—13.

Chambers.	Masterson.
Faust.	Murray.
Green.	Senter.
Griggs.	Terrell.
Holsey.	Veale.
Hudspeth.	Willacy.
Kellie.	

Nays—10.

Barrett.	Looney.
Brachfield.	Meachum.
Cunningham.	Skinner.
Greer.	Smith.
Harper.	Watson.

Absent.

Harbison.	Stokes.
Paulus.	Stone.

Absent—Excused.

Alexander.	Grinnan.
Glasscock.	Mayfield.

Senator Holsey moved the previous question on the amendment and the bill.

The motion being duly seconded, was so ordered.

The amendment by Senator Smith was lost by the following vote:

Yeas—10.

Barrett.	Looney.
Brachfield.	Meachum.
Cunningham.	Skinner.
Greer.	Smith.
Harper.	Watson.

Nays—13.

Chambers.	Masterson.
Faust.	Murray.
Green.	Senter.
Griggs.	Terrell.
Holsey.	Veale.
Hudspeth.	Willacy.
Kellie.	

Absent.

Harbison.	Stokes.
Paulus.	Stone.

Absent—Excused.

Alexander.	Grinnan.
Glasscock.	Mayfield.

The bill was read second time, and ordered engrossed by the following vote:

Yeas—16.

Chambers.	Masterson.
Cunningham.	Meachum.
Faust.	Murray.
Green.	Senter.
Griggs.	Skinner.
Holsey.	Terrell.
Hudspeth.	Veale.
Kellie.	Willacy.

Nays—7.

Barrett.	Looney.
Brachfield.	Smith.
Greer.	Watson.
Harper.	

Absent.

Harbison.	Stokes.
Paulus.	Stone.

Absent—Excused.

Alexander.	Grinnan.
Glasscock.	Mayfield.

Senator Veale moved that the constitutional rule requiring bills to be read on three several days be suspended and the bill be put on its third reading.

The motion was lost by the following vote, a four-fifths vote being required:

Yeas—18.

Barrett.	Faust.
Chambers.	Green.
Cunningham.	Griggs.

Harper.	Murray.
Holsey.	Senter.
Hudspeth.	Skinner.
Kellie.	Terrell.
Masterson.	Veale.
Meachum.	Willacy.

Nays—5.

Brachfield.	Smith.
Greer.	Watson.
Looney.	

Absent.

Harbison.	Stokes.
Paulus.	Stone.

Absent—Excused.

Alexander.	Grinnan.
Glasscock.	Mayfield.

#### SENATE BILL NO. 65

Senator Harper called for Senate bill No. 65, which was on the President's table subject to call.

The Chair laid before the Senate, on second reading,

Senate bill No. 65, A bill to be entitled "An Act to create a State Text-book Board, and to procure for use in the public free schools of the State of Texas a series of uniform text-books; defining the duties of certain officers therein named, making an appropriation therefor, defining certain misdemeanors, providing for a bond for the faithful performance of the contract, and to cover liquidated damages for fraud or collusion and authorizing the Attorney General to bring suit therefor, and providing penalties for violation of the provisions of this act."

There was an amendment by Senator Masterson, et al., pending (see Journal of the 19th inst., page 339, for the amendment), and the question was on that amendment.

Pending discussion on the amendment,

Senator Grinnan moved the previous question on the amendment, which motion being duly seconded, was so ordered.

Question then recurred on the amendment and the same was lost by the following vote:

Yeas—5.

Griggs.	Senter.
Harbison.	Willacy.
Masterson.	

Nays—16.

Chambers.	Harper.
Faust.	Holsey.
Green.	Kellie.
Greer.	Looney.
Grinnan.	Meachum.

Murray. Stokes.  
 Skinner. Terrell.  
 Smith. Veale.

Absent.

Barrett. Stone.  
 Cunningham. Watson.  
 Paulus.

Absent—Excused.

Alexander. Mayfield.  
 Glasscock.

#### PAIRED.

Senator Hudspeth (present), who would vote "yea," with Senator Brachfield (absent), who would vote "nay."

Senator Harper moved to reconsider the vote by which the amendment was lost, and lay that motion on the table. The motion to table prevailed.

Senator Griggs offered the following amendment, which was adopted:

Amend the bill by inserting after the word "include," line 28, page 1, the following, "and be limited to."

GRIGGS,  
 GREEN.

Senator Senter offered the following amendment, which was adopted:

Amend Section 1, page 2, by adding after the words, "the use of the textbooks herein prescribed," in line 6, the following words: "And the study of a language known as a dead language, such as Latin and Greek, shall never be made compulsory as a requirement for the completion of any regular course of study in use in any public school in this State."

Senator Skinner offered the following amendment:

Amend the bill as amended by striking out all after the words, "Section 1," in line 15, page 1, down to the word "shall," in line 22, page 1, and insert in lieu thereof the following: "The Superintendent of Public Instruction of this State, the President of the State Teachers' Association of this State and the President of the University of Texas as soon as practicable after this act takes effect, shall in such manner as they may determine, nominate nine public free school teachers of the town and rural public free schools of this State, who have actually taught in such schools at least five years and are at the time nominated, actively engaged in teaching, three county superintendents and three city superintendents who are teachers, and send the names of the fifteen teachers so nominated to the Gov-

ernor of this State. When said fifteen teachers have been nominated and their names sent to the Governor, he shall as soon as practicable select therefrom five teachers, one of whom shall be a county superintendent and one a city superintendent, and said five teachers so selected, together with the State Superintendent of Public Instruction and the Governor of this State."

#### EXECUTIVE MESSAGE.

Executive Office, State of Texas,  
 Austin, Texas, March 4, 1907.

To the Senate:

The advice and consent of the Senate is requested to the following appointments:

John M. Green of DeWitt county, as a member of the Board of Directors of the Agricultural and Mechanical College, vice Jot Gunter, resigned.

L. C. Penry of Hale county, to be District Attorney of the Sixty-fourth Judicial District of Texas, vice C. S. Williams, resigned.

T. M. CAMPBELL,  
 Governor.

#### EXECUTIVE SESSION—TIME SET FOR.

On motion of Senator Faust tomorrow at 11 o'clock was designated as the hour for the Senate to hold executive session for the purpose of considering the above appointments sent in by the Governor today.

#### BILL SIGNED.

The Chair (Lieutenant Governor Davidson) gave notice of signing, and did sign, in the presence of the Senate, after its caption had been read:

Committee Substitute Senate bill No. 19, A bill to be entitled "An Act providing additional procedure by which evidence may be taken in suits brought by the Attorney General or by the district or county attorney acting under his discretion, to enforce the laws of this State against trusts, monopolies and conspiracies in restraint of trade, or suits to enforce laws regulating and controlling corporations; providing for taking evidence within or without the State, and for the appointment of special commissioner and prescribing his powers and duties; providing for the attendance of witnesses and the production of books, papers and documents of corporations, joint stock associations, copartnerships or individuals before the court, or special commissioner, within or without this State;



prescribing duties of such corporations, joint stock associations, copartnerships or individuals in such cases; providing for issuance of notices of time and place of taking evidence and manner of service; providing that judgment by default shall be rendered against any defendant in such actions who fails to comply with the provisions of this act; providing that this act shall be cumulative of other laws of this State; providing immunity, and declaring an emergency." (See enrolled bill in full in appendix.)

#### ADJOURNMENT.

On motion of Senator Skinner, the Senate, at 5:50 o'clock adjourned until 10 o'clock tomorrow morning.

#### APPENDIX.

#### PETITION.

By Senator Looney:  
To the Senate of Texas.

Respected Sirs: We, citizens of Plano, Texas, do most earnestly petition your honorable body to enact a law prohibiting gambling on all manner of ball games.

Numerously signed.

#### COMMITTEE REPORTS.

(Floor Report.)

Committee Room,  
Austin, Texas, March 4, 1907.  
Hon. A. B. Davidson, President of the Senate.

Sir: We, the undersigned members of your Committee on Stock and Stockraising, to whom was referred

House bill No. 366, A bill to be entitled "An Act to amend Chapter XIV, General Laws of the State of Texas, passed at the Regular Session of the Twenty-seventh Legislature of the State of Texas," etc.,

Have had the same under consideration, and beg to report it back to the Senate with the recommendation that it do pass, and be not printed.

HUDSPETH,  
WILLACY,  
VEALE,  
GREEN.

Committee Room,  
Austin, Texas, March 4, 1907.  
Hon. A. B. Davidson, President of the Senate.

Sir: We, your Committee on Town and City Corporations, to whom was referred

Senate bill No. 236, A bill to be entitled "An Act to amend the charter of the city of Galveston by amending Sections 10, 24 and 51 thereof, Subdivision (f) and Subdivision (a) of Section 19 thereof, Subdivision (b) of Section 34 thereof and by adding to said charter Section 20 (a), and Section 68 (a), Section 71 (b), Section 71 (c), Section 71 (d) and Section 71 (e), and declaring an emergency,"

Have had the same under consideration and beg to report it back to the Senate with the recommendation that it do pass, and be not printed.

Chambers, Chairman; Willacy, Masterson, Green, Smith, Holsey, Griggs, Senter.

(Floor Report.)

Committee Room,  
Austin, Texas, March 4, 1907.  
Hon. A. B. Davidson, President of the Senate.

Sir: Your Committee on Education, to whom was referred

Senate bill No. 232, A bill to be entitled "An Act to amend Title CCXXIX, Section 1, of an act passed by the Thirteenth Legislature of the State of Texas, and approved June 2, 1873, and to provide for the filling vacancies in the board of trustees of the college of DeKalb in Bowie county, Texas, and to create a board of trustees for said college to provide for the filling of vacancies in said board and the transaction of the business thereof,"

Have had the same under consideration, and I am instructed to report it back to the Senate with the recommendation that it do pass, and be not printed.

Barrett, Chairman; Harper, Green, Kellie, Senter, Meachum.

(Floor Report.)

Committee Room,  
Austin, Texas, March 2, 1907.  
Hon. A. B. Davidson, President of the Senate.

Sir: Your Committee on Judiciary No. 2, to whom was referred

Senate bill No. 226, A bill to be entitled "An Act to amend 'An Act imposing an annual occupation tax upon each office or place kept and maintained by express companies in this State, at which intoxicating liquors legally deliverable are delivered upon payment of purchase money therefor; providing a penalty for failure to pay such tax; and declaring an emergency,' passed and enacted at the present session of the Thirtieth Legislature of the State of

Texas, and approved 12th day of February, 1907, so as to add thereto Section 2a, relieving such companies from keeping, operating or maintaining offices at which intoxicating liquors are deliverable upon the payment of the purchase price therefor, and further relieving such companies from any obligation to receive, transport, or deliver any intoxicating liquors to be paid for on delivery,"

Have had the same under consideration and beg leave to report same back to the Senate with the recommendation that it do pass and be not printed.

Looney, Chairman; Hudspeth, Paulus, Barrett, Watson, Meachum, Terrell.

Committee Room,  
Austin, Tex., March 2, 1907.

Hon. A. B. Davidson, President of the Senate.

Sir: Your Committee on Engrossed Bills have carefully examined and compared

Senate bill No. 58, A bill to be entitled "An Act to amend Article 21 of Title IX of the Revised Article 21 of Title IX of the Revised Civil Statutes of Texas, and to create the Sixth Supreme Judicial District of Texas, and provide for the organization of a Court of Civil Appeals within and for the Sixth Supreme Judicial District of Texas,"

And find the same correctly engrossed.  
CUNNINGHAM, Chairman.

Committee Room,  
Austin, Texas, March 4, 1907.

Hon. A. B. Davidson, President of the Senate.

Sir: Your Committee on Engrossed Bills have carefully examined and compared

Senate bill No. 7, A bill to be entitled "An Act authorizing the Southern Kansas Railway Company of Texas to take up and abandon that part of its track and roadbed extending from Washburn to Panhandle, and, in lieu thereof, locate, construct, maintain and operate its road on a line extending direct from Panhandle to Amarillo,"

And find the same correctly engrossed.  
STOKES, Acting Chairman.

Committee Room,  
Austin, Texas, March 2, 1907.

Hon. A. B. Davidson, President of the Senate.

Sir: Your Committee on Engrossed Bills have carefully examined and compared

Senate bill No. 173, A bill to be entitled "An Act to amend the city

charter of Dallas and the acts amendatory of said city charter of the city of Dallas and to amend an act to incorporate the city of Dallas and to grant it a new charter, approved May 9, 1899, and the acts amendatory of said act by adding thereto Section 120b and by confirming, ratifying and validating certain series of municipal coupon bonds issued by the city of Dallas by virtue of certain ordinances passed by the city council of the city of Dallas under the charter of the city of Dallas,"

And find the same correctly engrossed.  
CUNNINGHAM, Chairman.

Committee Room,  
Austin, Texas, March 4, 1907.

Hon. A. B. Davidson, President of the Senate.

Sir: Your Committee on Enrolled Bills have carefully examined and compared

Senate bill No. 19, "An Act providing additional procedure by which evidence may be taken in suits brought by the Attorney General or by the district or county attorney acting under his direction, to enforce the laws of this State against trusts, monopolies and conspiracies in restraint of trade, or suits to enforce laws regulating and controlling corporations; providing for taking evidence within or without the State, and for the appointment of special commissioner and prescribing his powers and duties; providing for the attendance of witnesses and the production of books, papers and documents of corporations, joint stock associations, copartnerships or individuals before the court, or special commissioner, within or without this State; prescribing duties of such corporations, joint stock associations, copartnerships or individuals in such cases; providing for issuance of notices of time and place of taking evidence and manner of service; providing that judgment by default shall be rendered against any defendant in such actions who fails to comply with the provisions of this act; providing that this act shall be cumulative of other laws of this State; providing immunity, and declaring an emergency."

Be it enacted by the Legislature of the State of Texas:

Section 1. Whenever any suit shall be instituted or is pending in any court of competent jurisdiction in this State, by the Attorney General, or by any district or county attorney acting under his direction, against any corporation, or corporations, individual or individuals or association of individuals, or joint stock associations, or copartner-

ships, under any law of this State, against trusts, monopolies or conspiracies in restraint of trade, or under any laws of this State regulating or controlling corporations, domestic or foreign, the Attorney General, district or county attorney, as the case may be, may, in addition to the means now provided by law, examine and procure the testimony or evidence of witnesses and have books, papers and documents produced as evidence, in the manner herein provided.

Sec. 2. Whenever any action is commenced or is pending, as contemplated in Section 1 of this act, by the Attorney General, or by any district or county attorney, acting under his direction, and said officer representing the State, either upon the trial of the case or in preparation for the trial thereof, desires to take the testimony of any officer, director, agent or employe of any foreign or domestic corporation, or joint stock association proceeded against, or in case of any copartnership, any member thereof, or in case of any individual or individuals, either of them, and the person or persons whose testimony is desired resides either within or without the State of Texas, the said officer shall file in said court where the action is brought, either in term time or in vacation, or with any special commissioner, who may be appointed by the court to take testimony, as provided for in this act, a statement in writing setting forth the name or names and residence of the person or persons whose testimony he desires to take, and in a general way shall designate any books, papers or documents he desires produced, and the time when, and place where, either within or without this State, he desires such person to appear and testify, or to produce books, papers and documents, if any are desired; and thereupon the judge of said court or the commissioner, as the case may be, before whom said testimony is being or shall be taken, shall immediately issue a notice in writing directed to the attorney or attorneys of record, in said cause, or the agent, officer or employe of any corporation or joint stock association, or directed to the attorney or attorneys of record of any copartnership, individual or individuals, or to any member of any such copartnership, or to any individual or individuals who are defendant or defendants in said action, notifying said attorney or attorneys of record, or officer, agent or employe, aforesaid, or member or members of any copartnership, or individual, as herein provided, that the testimony of the per-

son or persons named in said notice is desired, and requiring said attorneys of record, or such officer, agent or employe, aforesaid, or member of such copartnership, or any individual to whom said notice is delivered, or upon whom the same is served, to notify and have said witness or witnesses whose testimony or evidence it is desired to take, at the place named in such notice, at the time fixed therein, before the court, or special commissioner named, then and there to testify, and then and there to have and produce such books, papers and documents as are called for, and for any of the purposes herein provided; provided, that if the taking of such evidence be not concluded on the day and date specified in said notice, the court, or the commissioner, as the case may be, may continue the taking of same from day to day, or adjourn from day to day, at the same place, until the taking of such evidence has been concluded.

Sec. 3. Whenever any officer, director, agent or employe of any foreign or domestic corporation or joint stock association authorized to do business in this State, or any member of any copartnership, or any individual, against whom suit has been filed, or is pending, as provided for in this act, or the attorney or attorneys of record of any such corporation, joint stock association, copartnership or individual shall be notified in accordance with the provisions of this act, that any of the books, papers or documents belonging to such corporation, joint stock association, copartnership or individual are wanted before the court or special commissioner as provided in this act, it shall be the duty of such defendant corporation, joint stock association, copartnership or individual, as the case may be, to produce and present, or cause to be produced and presented, as required in said notice, all such books, papers and documents belonging to any such defendant, or under such defendant's control, as may be specified in said notice, in court or before said special commissioner, at the time and place so specified, and in the event of the failure or refusal of any such corporation, joint stock association, copartnership or individual, to comply with any of the provisions of this section, it shall be the duty of the court, upon the motion of the officer representing the State, to strike out all the pleadings, answers, motions, reply or demurrer theretofore or thereafter filed in such case by such defendant, corporation, joint stock association, copartnership or individual, as the case

may be, and render judgment by default against any such defendant.

Sec. 4. Whenever any attorney or attorneys of record, or any agent, officer or employe of any corporation or joint stock association proceeded against as herein provided, shall be notified that any officer, director, agent or employe of any such corporation, or joint stock association, is wanted before said court, or any special commissioner, as provided herein, to give his testimony or to produce any such books, papers or documents of said corporation, or joint stock association, as the case may be, or if any attorney or attorneys of record of any copartnership or individual shall be notified that any member or members of said copartnership, or any individual who are defendants in any such action, are desired as witnesses, or to produce books, papers or documents before any court or before any special commissioner appointed to take testimony in said proceeding, as herein provided, it shall be the duty of such attorney or attorneys of record, or any such officer, director, agent or employe, to immediately notify such person of the time and place where he shall attend and give his testimony, or produce any such books, papers or documents, if any are desired; and if the person or persons whose testimony is desired, as herein provided, shall fail to appear, or, appearing, shall refuse to testify, or shall fail to produce whatever books, papers or documents he or they may be ordered to produce, as before provided, then it shall be the duty of the court, upon motion of the Attorney General, district or county attorney, as the case may be, on proof of such refusal, failure or dereliction, to strike out the answer, motion, reply, demurrer or other pleading theretofore or thereafter filed in such action by said delinquent defendant who has himself, or being a corporation or joint stock association, whose officer, agent, director or employe, as herein provided, has refused or failed to attend and testify, or to produce all books, papers or documents demanded, which were in the custody, or subject to the control of such witness or witnesses, or corporation, or joint stock association, and said court shall, in the event of any such refusal or failure, proceed to render judgment by default against any such defendant; provided, however, that if any such defendant shall file a sworn denial, in writing, in said court, setting forth that such failure or refusal did not arise by reason of any fault or procurement of defendant, the court shall hear evidence upon

that issue, and if the defendant shows to the satisfaction of the court that any witness who failed to attend did not do so at the instance or procurement of said defendant, or that the books, papers or documents demanded were not in its possession or control, and could not be produced, and that such defendant had complied with all the provisions of this Act within such defendant's power to perform, then, in that event, the answer, motion, reply, demurrer or other pleadings shall not be stricken out or judgment by default taken because of the failure of the witness to attend who could not be so procured, or because of the failure to produce the books, papers or documents not in the possession or under the control of such defendant; but the court shall have the power to enter such further orders in respect to the matter in controversy as it may deem necessary for the proper administration of justice; provided further, that in any proceeding had before a special commissioner as herein provided, the certificate of the special commissioner showing the failure or refusal of any such witness or witnesses to appear and testify, or to produce any books, papers or documents desired, shall be sufficient prima facie evidence of such failure, refusal or dereliction on the part of any such defendant, when same is filed in court. Any witness attending any proceeding herein provided for in compliance with any notice or subpoena issued by authority of this act, shall receive as compensation one dollar per day for each day of his attendance, and four cents per mile traveled, computed upon the shortest practicable route; any claim for fees and mileage shall be filed with the court or special commissioner and sworn to by said witness, and shall be taxed up as costs and collected as other costs in civil cases.

Sec. 5. The court or presiding judge thereof, in which any proceeding as herein provided is pending, in term time or in vacation, upon application therefor, made by the Attorney General, or district or county attorney, acting under his direction, shall appoint some well qualified disinterested person as special commissioner to take testimony in any such case, at any point, either within or without this State, as designated in such application, or where requested by either party to such cause of action upon the issues joined in said cause, such special commissioner shall have full power and authority to issue notices provided for in Section 2 of this act, and to issue subpoenas for witnesses, compelling the attendance of such witnesses, the production of books, papers or docu-

ments; to issue attachments, to punish for contempt to the same extent as provided by law for said court; to administer oaths to witnesses; to have all witnesses examined orally, which testimony shall be reduced to writing, and may be taken down by a competent stenographer and transcribed, and shall be signed and sworn to by said witness. The person appointed special commissioner in any case shall qualify by taking the oath prescribed by the Constitution of this State for officers, and shall, with all convenient speed, certify and return the testimony taken by him to the court appointing him; and said commissioner shall note all objections to testimony, and shall not exclude any testimony, and all questions as to the materiality or admissibility of same shall be reserved for the court trying the case, and such testimony so taken may be read in evidence upon the trial of the suit in which same was taken, subject to any legal objections which might be made to same. The compensation of such commissioner shall be his actual expenses in traveling and such fees as are allowed a notary public in taking depositions, to be taxed up as costs and collected in the same manner as now provided by law for district clerks in civil cases.

Sec. 6. When any notice is issued and served, as provided for in this act, ten full days, exclusive of the day of service, shall elapse before any witness so requested shall be compelled to appear and testify, or produce any books, papers or documents called for, and if the taking of testimony shall not be concluded on the date named in said notice, the witness or witnesses shall remain in attendance from day to day until same is completed or said witness is finally discharged by the court or commissioner, as the case may be; service of said notice and the return thereon, may be made by any sheriff or constable of this State, or by any disinterested person competent to make oath of the fact, and shall be made by said person executing the same, by delivering to the person or persons, attorney or attorneys to be served, a true copy of such notice; and return of such service shall be endorsed on or attached to the original notice; it shall state when the same was served and the manner of service and upon whom served, and shall be signed, and if served by any person other than an officer, shall be sworn to by the party making the service before some officer authorized by law to take affidavits, and such affidavit shall be certified under the hand and official seal of such officer.

Sec. 7. Any witness for the State, who shall testify or produce any books, papers or documents in any proceeding, or examination under the provisions of this act, shall not be subject to indictment or prosecution for any transaction, matter or thing, concerning which he truthfully testifies or produces evidence, documentary or otherwise.

Sec. 8. The provisions of this act shall be cumulative of all laws of this State, and shall not be construed as repealing any other law relating to the taking of testimony or evidence, but shall be construed as providing an additional means of securing evidence for the enforcement of the laws, as herein provided.

Sec. 9. The inadequacy of the laws of this State to enable the Attorney General or the district and county attorney acting under his direction, to procure testimony in support of, and prosecutions of suits brought by the State to enforce the law against trusts, monopolies and conspiracies in restraint of trade and the corporation laws, creates an emergency and imperative public necessity, demanding the suspension of the constitutional rule requiring bills to be read on three several days, and same is hereby suspended, and this act shall take effect and be in force from and after its passage, and it is so enacted.

Have carefully compared, same and find it correctly enrolled, and have this day, at 4:15 o'clock p. m., presented same to the Governor for his approval.

MASTERTON, Chairman.

#### FORTY-SECOND DAY.

Senate Chamber,

Austin, Texas,

Tuesday, March 5, 1907.

Senate met pursuant to adjournment.

President Pro Tem. Skinner in the chair.

Roll call, quorum present, the following answering to their names:

Alexander.	Looney.
Barrett.	Masterson.
Brachfield.	Mayfield.
Chambers.	Meachum.
Cunningham.	Murray.
Faust.	Senter.
Green.	Skinner.
Greer.	Smith.
Griggs.	Stokes.
Grinnan.	Stone.
Harbison.	Terrell.
Harper.	Veale.
Holsey.	Watson.
Hudspeth.	Willacy.
Kellie.	